IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1021 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SATKAR INVESTMENTS THRO'P.O.A.

Versus

ASHWINABEN CHINUBHAI SHAH

Appearance:

1. Civil Revision Application No. 1021 of 2000

MR UNMESH D SHUKLA for Petitioner No. 1

Mr.S.M.Shah for

MR BN RAVAL for Respondent No. 1

NOTICE SERVED for Respondent No. 2-4

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 18/04/2002

ORAL JUDGEMENT

1. Mr.Shukla seeks permission to delete respondents Nos.2 to 4 against whom the learned Chamber Judge has already granted unconditional leave. Accordingly

respondents Nos.2 to 4 are deleted.

2. Rule. Mr.S.M.Shah waives service of rule on behalf of respondent No.1. By consent rule is fixed forthwith.

3. The challenge is in respect of the order passed by the learned Chamber Judge wherein the learned Chamber Judge directed the petitioner - defendant No.1 to deposit a sum of Rs.75,000/-- by granting six weeks time, as per order dated 31.8.2000. During hearing I was taken through the plaint and the Chamber Summons taken out by the plaintiff in Summary Suit No.4987/98,wherein the learned Chamber Judge has, on examining the contentions raised by the defendants and on considering the case put forward by the plaintiff in a Suit for recovery of the money, granted conditional leave to petitioner by directing the petitioner to deposit Rs.75,000/--. As found from the papers attached to this Revision Application, the plaintiff has filed Suit for recovery of money and the principle amount claimed is Rs.3,84,000/-and the interest is calculated at the rate of 12% on the said amount. Accordingly the total claim against the defendants is Rs.5,01,500/--. As found from the order passed by the learned Chamber Judge, the defendant has relied upon a decision of this court reported in P.P.Prajapati v. M/s. Jagdish Timber Mart,reported in 1985 GLH (UJ) 2, according to which the the Summary Suit is maintainable,but the court should grant unconditional leave to defend.

4. Without expressing anything on the contentions raised and in view of the fact that leave was granted on condition of deposit of Rs.75,000/-- as per order dated 31.8.2000 and when this Court (Coram: K.M.Mehta,J) while issuing notice dated 27.11.2000 has stayed the order of deposit and the said order is still continued, this court is of the view that the ends of justice will meet if the trial court is directed to take Suit on hand as the Suit is of the year 1998, in respect of the claim of the plaintiff of the year 1996. The counsel appearing in the matter have assured this court that the clients and their advocate will co-operate with the court to enable the learned Judge to dispose of the Suit if the court gives any direction to dispose of the suit within a stipulated time. Accordingly in the interest of justice, this court is of the view that rather than asking the petitioner to deposit a sum of Rs.75,000/-- by way of condition to defend, the trial court is directed to dispose of the suit pending before him as expeditiously as possible, however not later than 31.3.2003 in accordance with law

and as observed earlier, the parties will co-operate with the trial court to enable the trial court to dispose of the Suit within the time granted by this court. With these observations, this Revision Application is disposed of. Rule is made absolute. No order as to costs.

(D.K.Trivedi,J)

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